

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
HOUSE COMMITTEE SUBSTITUTE NO. 2 FOR
HOUSE BILL NO. 1462
96TH GENERAL ASSEMBLY

5483H.02T

2012

AN ACT

To repeal section 142.031, RSMo, and to enact in lieu thereof one new section relating to the Missouri Qualified Biodiesel Producer Incentive Fund.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 142.031, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 142.031, to read as follows:

142.031. 1. As used in this section the following terms shall mean: (1) "Biodiesel", fuel as defined in ASTM Standard D-6751 or its subsequent standard specifications for biodiesel fuel (B100) blend stock for distillate fuels; (2) "Missouri qualified biodiesel producer", a facility that produces biodiesel, is registered with the United States Environmental Protection Agency according to the requirements of 40 CFR 79, and:

(a) a. Is at least fifty-one percent owned by agricultural producers who are residents of this state and who are actively engaged in agricultural production for commercial purposes; or

b. At least eighty percent of the feedstock used by the facility originates in the state of Missouri. For purposes of this section, "feedstock" means an agricultural, horticultural, viticultural, vegetable, aquacultural, livestock, forestry, or poultry product either in its natural or processed state; and

(b) Meets all of the following:

a. Has registered with the department of agriculture by September 1, 2007;

b. Has begun construction of the facility before November 1, 2007; and

c. Has begun production of biodiesel before March 1, 2009.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 2. The "Missouri Qualified Biodiesel Producer Incentive Fund" is hereby created and
17 subject to appropriations shall be used to provide economic subsidies to Missouri qualified
18 biodiesel producers pursuant to this section.

19 The director of the department of agriculture shall administer the fund pursuant to this section.

20 3. A Missouri qualified biodiesel producer shall be eligible for a monthly grant from the
21 fund provided that one hundred percent of the feedstock originates in the United States.
22 However, the director may waive the feedstock requirements on a month-to-month basis if the
23 facility provides verification that adequate feedstock is not available. A Missouri qualified
24 biodiesel producer shall only be eligible for the grant for a total of sixty months unless such
25 producers during the sixty months fail, due to a lack of appropriations, to receive the full amount
26 from the fund for which the producers were eligible, in which case such producers shall continue
27 to be eligible [for up to twenty-four additional months or] until they have received the maximum
28 amount of funding for which such producers were eligible during the original sixty-month time
29 period. The amount of the grant is determined by calculating the estimated gallons of qualified
30 biodiesel produced during the preceding month from feedstock, as certified by the department
31 of agriculture, and applying such figure to the per-gallon incentive credit established in this
32 subsection. Each Missouri qualified biodiesel producer shall be eligible for a total grant in any
33 fiscal year equal to thirty cents per gallon for the first fifteen million gallons of qualified
34 biodiesel produced from feedstock in the fiscal year plus ten cents per gallon for the next fifteen
35 million gallons of qualified biodiesel produced from feedstock in the fiscal year. All such
36 qualified biodiesel produced by a Missouri qualified biodiesel producer in excess of thirty
37 million gallons shall not be applied to the computation of a grant pursuant to this subsection.
38 The department of agriculture shall pay all grants for a particular month by the fifteenth day after
39 receipt and approval of the application described in subsection 4 of this section.

40 4. In order for a Missouri qualified biodiesel producer to obtain a grant from the fund,
41 an application for such funds shall be received no later than fifteen days following the last day
42 of the month for which the grant is sought. The application shall include:

43 (1) The location of the Missouri qualified biodiesel producer;

44 (2) The average number of citizens of Missouri employed by the Missouri qualified
45 biodiesel producer in the preceding month, if applicable;

46 (3) The number of bushel equivalents of Missouri feedstock and out-of-state feedstock
47 used by the Missouri qualified biodiesel producer in the production of biodiesel in the preceding
48 month;

49 (4) The number of gallons of qualified biodiesel the producer manufactures during the
50 month for which the grant is applied;

51 (5) A copy of the qualified biodiesel producer license required pursuant to subsection
52 5 of this section, name and address of surety company, and amount of bond to be posted pursuant
53 to subsection 5 of this section; and

54 (6) Any other information deemed necessary by the department of agriculture to
55 adequately ensure that such grants shall be made only to Missouri qualified biodiesel producers.

56 5. The director of the department of agriculture, in consultation with the department of
57 revenue, shall promulgate rules and regulations necessary for the administration of the provisions
58 of this section.

59 6. Any rule or portion of a rule, as that term is defined in section 536.010, that is created
60 under the authority delegated in this section shall become effective only if it complies with and
61 is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section
62 and chapter 536 are nonseverable and if any of the powers vested with the general assembly
63 pursuant to chapter 536 to review, to delay the effective date or to disapprove and annul a rule
64 are subsequently held unconstitutional, then the grant of rulemaking authority and any rule
65 proposed or adopted after August 28, 2002, shall be invalid and void.

66 7. This section shall expire on December 31, 2009. However, Missouri qualified
67 biodiesel producers receiving any grants awarded prior to December 31, 2009, shall continue to
68 be eligible for the remainder of the original sixty-month time period under the same terms and
69 conditions of this section unless such producer during such sixty months failed, due to a lack of
70 appropriations, to receive the full amount from the fund for which he or she was eligible. In such
71 case, such producers shall continue to be eligible [for up to twenty-four additional months or]
72 until they have received the maximum amount of funding for which they were eligible during
73 the original sixty-month time period.

74 8. Any Missouri qualified biodiesel producer who receives any grant payments under this
75 section who subsequently sells the biodiesel facility shall be subject to the following payback
76 requirements:

77 (1) If such facility is sold within less than one year of the date of issuance of the last
78 grant payment, the Missouri qualified biodiesel producer shall pay the state the amount of fifty
79 percent of the total amount of grant payments received under this section;

80 (2) If such facility is sold within one to two years of the date of issuance of the last grant
81 payment, the Missouri qualified biodiesel producer shall pay the state the amount of forty percent
82 of the total amount of grant payments received under this section;

83 (3) If such facility is sold within two to three years of the date of issuance of the last
84 grant payment, the Missouri qualified biodiesel producer shall pay the state the amount of thirty
85 percent of the total amount of grant payments received under this section;

86 (4) If such facility is sold within three to four years of the date of issuance of the last
87 grant payment, the Missouri qualified biodiesel producer shall pay the state the amount of twenty
88 percent of the total amount of grant payments received under this section;

89 (5) If such facility is sold within four to five years of the date of issuance of the last grant
90 payment, the Missouri qualified biodiesel producer shall pay the state the amount of ten percent
91 of the total amount of grant payments received under this section. If the sale date of the facility
92 falls on a date that qualifies under more than one subdivision of this subsection, the greater
93 payback amount shall apply. For purposes of this subsection, a facility shall be considered "sold"
94 when there is a change in at least fifty-one percent of the facility's ownership in a transaction that
95 involves a buyer or buyers and a seller or sellers.

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